



DCJS

Office of Probation and Correctional Alternatives

DWI Offender Accountability Courts

The Role of Probation

**Robert M. Maccarone
Deputy Commissioner and
Director, Office of Probation and
Correctional Alternatives**

Impaired Driving Crashes

Total and Alcohol-Related (A-R) Fatalities					
	2008	2009	2010	2011	2012
Total Fatalities	1,224	1,148	1,192	1,153	1,163
Number of A-R Fatalities	381	361	354	362	358
% of Total Fatalities	31%	31%	30%	31%	31%

Probation DWI Supervision

- As of February 28, 2014 - Probation Officers were supervising 109,694 active adult probationers.
- 24,863 or 23% are supervised due to a DWI.
- In some counties, up to 45% of persons under probation supervision are DWI offenders
- DWI Probationers are often repeat offenders
- In a sample of DMV 104 Crash Fatality Reports, probationers were involved in 30 of 217 fatal crashes (14%).

Probation Pre-Trial Supervision and Pre-Sentence Investigations

- Probation Departments provide pretrial supervision services in 36 counties.
- Probation pre-trial programs provide earliest opportunity for screening and identification of DWI offenders
- Presentence investigation (PSI) recommendations are based on extensive fact gathering, research and interview of the defendant
- Chapter 169 of the Laws of 2013, effective November 1, 2013, authorizes the installation of ignition interlock devices in advance of sentencing with active monitoring by probation and county designated agencies
- Probation recommends court ordered presentence installation of IID's

Early Identification of High Risk DWI Offenders

- Alcohol and substance abuse evaluations may be conducted at the presentence investigation stage to inform the report to the Courts.
- DWI Probationers receive the NYCOMPAS Risk and Need Assessment that measures the general risk of offender recidivism as well as , failure to appear risk and risk of violence. In addition, the assessment identifies the criminogenic needs that drive criminal behaviors including criminal attitudes and thinking, criminal associates /peers, etc. OPCA strongly supports conduction specialized risk assessments for impaired driving probationers (and other specialized groups such as sex offenders) that are specific to their crime.

Court Ordered “Orders and Conditions” of Probation Supervision

- Orders and Conditions of Probation Supervision frame the authority of probation in supervising the DWI Offender
 - Abstinance from alcoholic beverages or any products containing alcohol
 - Participate in treatment for alcohol or other drugs
 - Comply with all drug and alcohol screenings
 - Not to own or operate any vehicles without an IID installed
 - Maintain/Obtain gainful employment
 - Comply with all curfews or restrictions imposed by the court including participation in Victim Impact Panels
 - Comply with Probation in the use of technology in supervision, including GPS, Electronic Monitoring, Transdermal Alcohol Monitoring, etc.
 - Comply with Probation in seeking relicensure

Probation Supervision

- Supervision of impaired driving probations can take many forms. Common tasks in supervision are:
 - Monitoring IID reports to ensure the probationer has not tried to drive while intoxicated
 - Office visits with the probationer to check on their status
 - Positive home contacts to ensure the probationer is complying with the conditions of probation
 - Drug and alcohol testing to ensure no drug use is occurring
 - Case conferences and reports to concerned parties such as the courts, drug courts and/or treatment providers
 - Surveillance to ensure probationers follow the conditions of probation
 - The use of technology in supervision including:
 - DMV programs like License Event Notification Service (LENS)
 - Technology like ankle monitors, alcohol screening devices, and license plate readers

Graduated Responses

- Probation Departments utilize graduated responses to change probationer behavior.
- Positive Incentives or Rewards for Compliance
 - Verbal and Written Recognition of Compliance/Success in Treatment, Supervision
 - Decreased reporting days
 - Approval of travel permits
 - Approval to apply for relicensure
 - Consideration for early discharge
- Sanctions to address Non-Compliance
 - Increased reporting days and frequency of alcohol/drug testing
 - Use of monitoring technology including alcohol monitoring devices, and GPS
 - Curfew or home confinement
 - Administrative Hearings
 - Recommendation for Judicial Reprimand
 - Filing of Violation of Probation

Non-Compliance with IIDs

- Probation Departments and CD Monitors are required to take appropriate action consistent with public safety regarding the following IID related events:
 - Operator failure to install IID on the vehicle(s) he/she owns or operates
 - Operator has not complied with service visit requirements
 - Report of alleged or attempted tampering or circumvention of IID
 - Report of failed or missed start-up retest, or
 - Report of failed or missed rolling retest, or
 - Report of vehicle entering lock-out mode.
- At minimum, the Probation or CD monitor must notify the appropriate Court and District Attorney within three (3) business days of the following:
 - Operator failure to install IID on the vehicle(s) he/she owns or operates
 - Operator has not complied with service visit requirements
 - Any report of alleged or attempted tampering or circumvention of IID
 - Report of vehicle entering lock-out mode
 - Any report of a failed test or re-test where BAC is .05% or higher

Response to Violations

In addition to IID related non-compliance, courts are also notified of continued criminal behavior, or Technical Violations of Probation through Court Notifications, or Violation of Probation petitions

- Court responses depending on circumstances of case may include:
 - Reprimand or admonishment,
 - Upwards modification of Orders and Conditions,
 - Imposition of brief periods of incarceration or intermittent incarceration
 - Revocation
- *A timely response to violative behavior is likely to result in improved offender compliance.*

“Leandra’s Law” and Ignition Interlock Devices in New York State

August 15, 2010 thru December 31, 2013

- **58,668** sentencing orders were issued in NYS
- **16,372** interlocks installed (rate of 27.9%)

IID Fee Payments

- **89.8%** (14,709) of defendants were ordered to pay the full cost of the interlock
- **6.6%** (1,076) of defendants were granted waivers
- **3.6%** (587) of convicted operators were ordered to make partial payment

IID Negative Events

IID Negative Event Counts by Manufacturer January thru December 2013 Year								
New York State Ignition Interlock Manufacturer	Missed Service Visit	Failed/Missed Start-up Re- test	Failed Start-up Re-test: BrAC Range ≥ 0.08	Failed/Missed Rolling Re-test	Failed Rolling Re-test: BrAC Range ≥ 0.08	Lock-outs Initiated	Vehicles Disabled	Attempted Circumvention or Tampering
	2013 YTD	2013 YTD	2013 YTD	2013 YTD	2013 YTD	2013 YTD	2013 YTD	2013 YTD
1A Smart Start, Inc.	3458	2377	2144	1513	83	2086	624	206
1A LifeSafer, Inc.	1872	3110	107	1182	169	3707	0	0
Consumer Safety Technology, LLC.	0	7231	1042	1092	81	4797	391	0
Draeger Safety Diagnostics, Inc.	405	4380	279	1096	47	2021	405	0
Interceptor Ignition Interlocks, Inc. *	13	116	21	54	2	338	6	0
Sens-O-Lock of America, LLC. *	0	63	11	24	2	13	0	205
Statewide Interlock Systems, Inc. *	8	9	1	11	0	0	1	0
Total	5756	17286	3605	4972	384	12962	1427	411

* No longer a New York State Qualified Ignition Interlock Device Manufacturer.

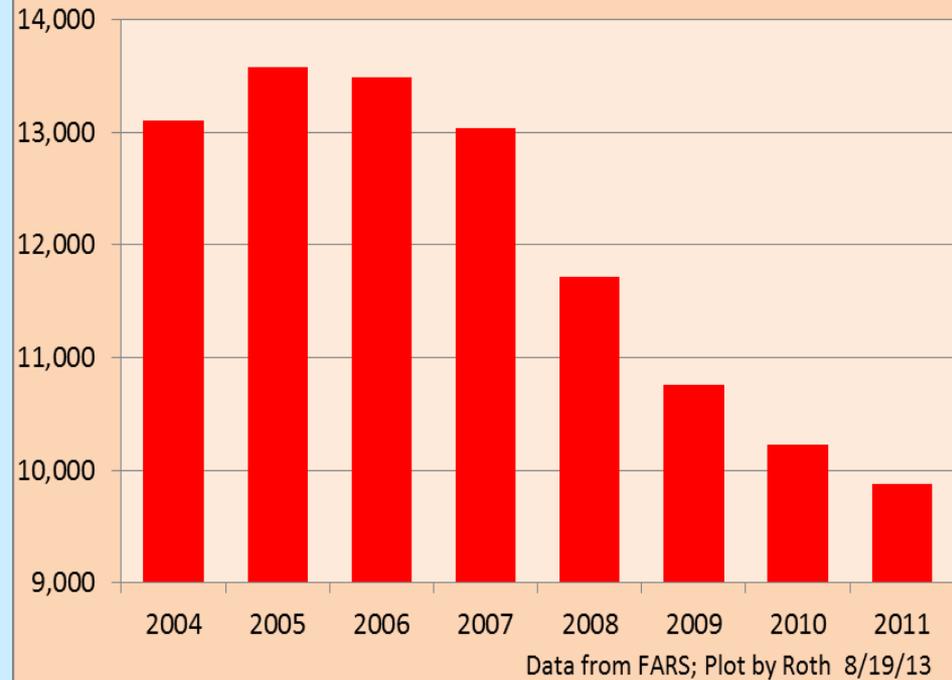
Interlocks Up

Fatalities Down

Interlocks Installed in the U.S.



U.S. Alcohol-Involved-Driving Fatalities



Source: Dr. Richard Roth